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General Accounting Office
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Human Resources Division

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149635

July 20, 1993

The Honorable Daniel P. Moynihan, Chairman
The Honorable Bob Packwood
Ranking Minority Member
Committee on Finance
United States Senate

The Honorable Donald W. Riegle, Jr., Chairman
The Honorable John H. Chafee
Ranking Minority Member
Subcommittee on Health for
Families and the Uninsured
Committee on Finance
United States Senate

The Honorable John D. Rockefeller, IV, Chairman
The Honorable Dave Durenberger
Ranking Minority Member
Subcommittee on Medicare
and Long-Term Care
Committee on Finance
United States Senate

The Honorable David Pryor, Chairman
The Honorable William S. Cohen
Ranking Minority Member
Special Committee on Aging
United States Senate

The Congress and the states are concerned that many elderly Americans with substantial financial means are sheltering their assets through Medicaid estate planning, thereby qualifying for Medicaid nursing home benefits. Medicaid estate planning takes many forms, including transferring ownership of assets, making assets unavailable to pay for nursing home costs, or appealing the value of assets the spouse living at home is allowed to keep consistent with Medicaid requirements.

GAO/HRD-93-29R Medicaid Estate Planning

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Because information is not available on how many elderly conduct Medicaid estate planning, the Senate Finance Committee and the Senate Special Committee on Aging requested that GAO determine (1) the prevalence of Medicaid estate planning for purposes of becoming Medicaid-eligible, (2) the value of assets sheltered through Medicaid estate planning, and (3) the extent to which states are enforcing Medicaid requirements concerning Medicaid estate planning.

This correspondence provides information on these issues on one state--Massachusetts. Because little more than anecdotal information is available on Medicaid estate planning, we reviewed a random sample of 403 Medicaid application files for nursing home benefits in Massachusetts. In brief, we found:

- More than half of the Medicaid applicants had either converted assets, thereby making them unavailable for nursing home costs, from one form to another or transferred assets to another party during the preceding 30 months.
- Asset conversions, the most common form of Medicaid estate planning, averaged \$5,600 and typically involved setting aside money for burial arrangements. Other less common types of conversions included home repairs and automobile purchases.
- Asset transfers were far less frequent, but involved larger amounts of money. Slightly more than 10 percent of the total cases involved asset transfers that include cash transfers, real estate transfers, and trusts.¹ Transfers, typically to family members, averaged \$46,000 with one of every three transfers for less than \$10,000.
- Of those applicants that transferred assets, half were denied eligibility. Six of the seven applicants that transferred more than \$100,000 in assets were denied eligibility, though even these applicants could become eligible for Medicaid funding of their nursing home care 30 months after making the transfer.

¹A trust is a legal arrangement whereby money or other property is set aside to be managed by a trustee for the benefit of an individual or individuals specified under the terms of the trust.

The files we reviewed represented about a third of all Medicaid nursing home applications that the state approved or denied, or the applicants withdrew, in October 1992.² The files contained documentation showing how applicants used Medicaid estate planning to shelter their assets. We selected Massachusetts because experts believe it is one of several states where such planning is prevalent. We briefed your offices on the results of our initial efforts to gain more systematic data on this issue from Massachusetts. While the results of our work may accurately reflect Medicaid estate planning by applicants in October 1992, the results may not reflect Medicaid estate planning activities on a national level.

Moreover, our data do not account for applicants who transferred assets in the past but, because of program requirements, did not have to report the transfers to the state. Additionally, the elderly who do not yet need nursing home care but conducted Medicaid estate planning also would not be included in our research. No data are available on the number of elderly that fall into either category. More detailed information on our scope and methodology appears in enclosure I.

Despite the limitations of this single state sample in identifying the magnitude and nature of estate planning at the national level, your Committees' staffs believed that this information could be useful to the Congress in its current deliberations. The Committees' staffs asked us to make this information available to the Congress to assist it in near term deliberations on Medicaid issues.

BACKGROUND

Because the elderly must meet both asset and income limitations to qualify for Medicaid nursing home benefits, some employ Medicaid estate planning to dispose of their assets to meet these limitations. In most states, including Massachusetts, single individuals with less than \$2,000 and married applicants with less than \$3,000 in assets³ qualify for benefits. Moreover, Massachusetts is

²Of the 403 applications, the state approved 210 and denied 182, and 11 applicants withdrew their applications.

³States count only certain assets in determining an applicant's eligibility.

one of 38 states that have no upper limit on income to qualify for nursing home benefits as long as the individual's income is less than the cost of medical care including nursing home care. Massachusetts' Medicaid nursing home expenditures for the elderly in 1991 totaled \$1.3 billion.

Medicaid law and regulations permit numerous ways for people to participate in Medicaid estate planning, which often necessitates the assistance of an attorney. These include the following three methods:⁴

- Transferring assets held by the applicant or his/her spouse to others through such means as trusts, and cash gifts
- Converting assets that Medicaid considers available for nursing home payments (countable assets) to assets that Medicaid considers unavailable to cover nursing home care (noncountable assets). Countable assets include cash, stocks, bonds, and mutual funds. Noncountable assets include prepaid burial arrangements, automobiles, annuities, and, in certain circumstances, primary residences.⁵
- Appealing the amount of assets that the spouse who remains at home is allowed to retain; this amount is called the community spouse resource allowance. The "community" spouse is allowed to keep half of the couple's assets, subject to a minimum and maximum amount, which in 1993 is \$14,148 and \$70,740 respectively. The community spouse is also allowed to

⁴Other methods identified by experts include paying off debts, placing assets in joint accounts; buying an annuity; paying family members for providing caregiving services; and buying expensive term life insurance, which has no cash value.

⁵Although a primary residence may not be a countable asset in determining an applicant's Medicaid eligibility, the state may place a lien on the property in certain circumstances. Upon the sale of the residence, the state may subsequently recoup some, or all, of its moneys spent on the applicant's nursing home care.

retain sufficient income⁶ to meet monthly living expenses. If these expenses are greater than the income available to the community spouse, either spouse may appeal to Medicaid, requesting that the community spouse be allowed to keep greater assets so that the income generated from these assets will make up the difference between the monthly expenses and the shortfall in monthly income.

Medicaid legislation and regulations discourage such actions by making a person ineligible for Medicaid benefits if they, or their spouse, transfer assets for less than fair market value within 30 months of applying for Medicaid or entering a nursing home, whichever is later. The presumption is that the person transferred his or her assets to meet Medicaid eligibility criteria.⁷ The maximum penalty is 30 months of benefits, regardless of the amount transferred, and begins in the month in which the transfer was made. Transfers that occur 31 months or more before the person applies for benefits or enters a nursing home, whichever is later, do not have to be reported to the state unless the transfer involved a Medicaid qualifying trust.⁸ Medicaid does not penalize people who convert countable assets to noncountable assets.

To determine how many months an applicant is ineligible, the state divides the value of the assets transferred by the average monthly cost of private nursing home care in the state. If a person transfers assets on multiple occasions during a period of time, separate ineligibility penalties are calculated, which may run concurrently.

⁶In 1993, the community spouse is allowed to keep a maximum of \$1,179 in monthly income to meet living expenses.

⁷States may grant eligibility if an applicant can demonstrate that the assets were transferred for purposes other than to qualify for Medicaid.

⁸To be considered a Medicaid qualifying trust, the trust must (1) be established by the applicant or spouse and (2) allow for the applicant to be the beneficiary of all or part of the payments from the trust. In such cases, the maximum payment that may be made to the beneficiary under the trust is deemed available to the beneficiary in determining Medicaid eligibility.

Medicaid regulations require states to verify that the applicant meets income and asset eligibility criteria. To do this, states are to determine if applicants transferred assets for less than fair market value within 30 months of institutionalization or applying for Medicaid, and the states apply ineligibility penalties if they have. Also, states are required to perform computer matching of Internal Revenue Service tax information with unearned income reported by applicants when they applied for Medicaid.

Why Is Medicaid Estate Planning
Considered a Problem?

Federal and state government officials and others are concerned that increasing Medicaid payments are partly due to elderly people sheltering their assets through Medicaid estate planning to become eligible for Medicaid nursing home benefits. A growing number of attorneys and others practicing financial planning have educated the elderly on how to protect their assets from being spent on the high costs of nursing home care, which can exceed \$50,000 per year. Also, Census information shows that people 85 years old and older, the group most likely to need nursing home care, are expected to be the fastest growing part of the elderly population into the next century. If an increasing number of the elderly participate in Medicaid estate planning, the consequences on future Medicaid nursing home payments could be significant.

State government officials and others are also concerned about the effects that Medicaid estate planning has upon other parts of the Medicaid program. By spending scarce Medicaid funds on the nonpoor elderly in nursing homes, federal and state resources available for other Medicaid programs that serve women, children, and the disabled become even further limited.

MEDICAID ESTATE PLANNING BY
THE ELDERLY IN MASSACHUSETTS

Of the 403 applicants in our sample, 54 percent converted some of their countable assets to noncountable assets and 13 percent transferred assets. While the value of assets transferred was about twice that of the assets converted, a small number of transfers accounted for approximately half of the total transfer value. Moreover, 67 percent of the total amount transferred stemmed from cases that Medicaid

had denied or the applicant had withdrawn. The application files had no evidence that applicants or their spouses appealed the community spouse resource allowance. Although Massachusetts is complying with Medicaid eligibility and asset transfer requirements, it continues to experience difficulties in obtaining complete information from applicants and verifying all the information supplied. Figure 1 shows the total number of asset conversions and asset transfer cases we identified in our sample, while figure 2 shows the total amount of assets converted and transferred.

Figure 1: Number of Asset Conversions and Asset Transfers Identified in Our Sample

250 Number of Cases

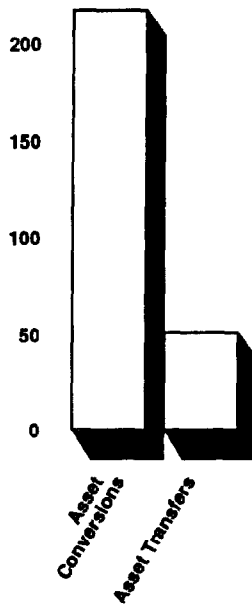
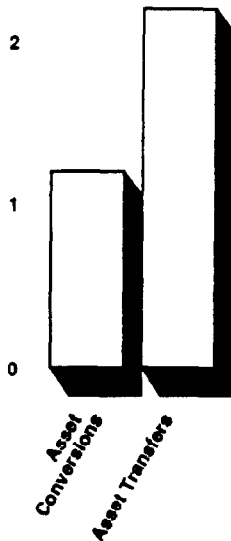


Figure 2: Amounts Converted and Transferred by Applicants in Our Sample

3 Total Amount (in millions)



ASSET CONVERSIONS OCCUR FREQUENTLY
BUT NOT FOR SIGNIFICANT SUMS

Asset conversions were not a significant problem in Massachusetts for the Medicaid applications we reviewed. While more than half the applicants converted assets, the average amount was small and mostly related to applicants' paying for their burial arrangements. Also, conversions often occurred shortly before an applicant was approved for Medicaid as applicants spent some of their last countable assets to qualify.

Frequency and Methods of Asset Conversions

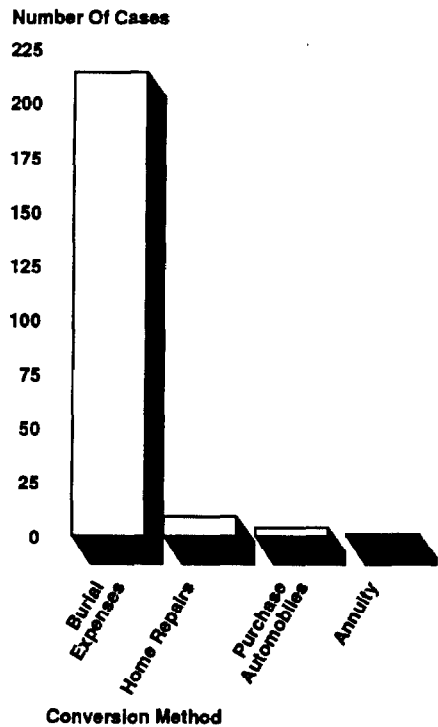
We found that 217 applicants⁹ (or 54 percent) converted assets totaling \$1.2 million. Applicants converted their assets by (1) prepaying or setting aside money for their

⁹Of the 217 applicants, the state approved 115 and denied 95, and applicants withdrew 7 applications.

burial arrangements, (2) paying for home repairs and improvements, (3) purchasing automobiles, and (4) investing in an annuity. The average amount converted was \$5,618, about one-ninth the average asset transfer amount.

Paying for burial arrangements was the most common asset conversion method, as shown in figure 3.

Figure 3: Asset Conversion Frequency and Methods



Of the 217 applicants who converted assets, 214 paid or set aside money for their burial arrangements, at an average of \$4,700 each. This included prepaying funeral expenses by an irrevocable trust in any amount and establishing a burial-related savings account, of which \$1,500 is a noncountable asset. Of the \$1.2 million converted, 83 percent related to burial arrangements. In some cases, state eligibility workers advised applicants to convert their assets in this manner to qualify for Medicaid benefits. For example a 93-year-old widow approved for Medicaid in October 1992 converted \$6,340 the previous month. She set aside \$1,500 in a burial-related savings account and paid \$4,840 to an irrevocable trust for burial

expenses. After these conversions, she had \$1,827 in countable assets, thereby qualifying for Medicaid.

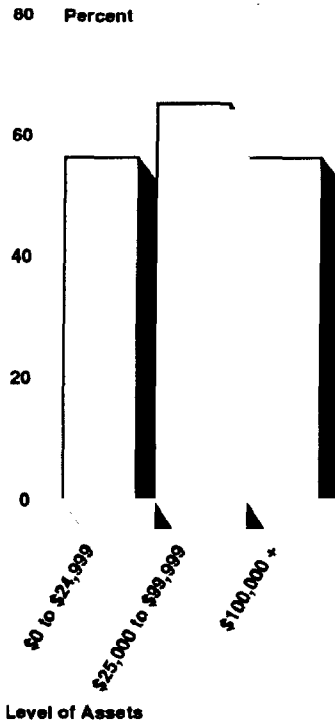
Excluding burial arrangement conversions, we identified 14 instances in which applicants converted their countable assets using three other conversion methods:

- Nine applicants made home improvements or repairs, such as painting or replacing windows. Home improvements per applicant averaged \$7,105.
- Four married applicants purchased automobiles with an average value of \$14,182.
- One applicant's spouse bought a \$79,500 annuity, thereby qualifying her husband for Medicaid while retaining a \$68,700 community spouse resource allowance. The value of the annuity was approximately the amount the state calculated that the couple would need to spend to obtain Medicaid benefits.

Asset Conversions Are Not Limited
to Those Who Have Greater Assets

We found that asset conversions did not depend upon the applicant's financial status or several other factors we measured. As shown in figure 4, the percentage of applicants who converted assets was about the same, regardless of the applicants' assets.

Figure 4: Percentage of Asset Conversions by Asset Level



Additionally, asset conversions occurred about equally between

- applicants who were approved or denied for Medicaid and
- applicants in different income categories.

Conversions Usually Occur Just Before Applicants Are Approved for Medicaid

In 51 percent of the 217 conversion cases we identified, the applicants converted their assets within 3 months of the state's eligibility decision. This is not surprising, given that nearly all conversions related to burial arrangements. Elderly people often make such arrangements around the time they need nursing home care.

Additionally, Medicaid does not penalize asset conversions. Thus, the elderly who need nursing home care can convert assets when requesting Medicaid benefits without adversely affecting their eligibility.

SOME ASSET TRANSFERS MAY INVOLVE
CONSIDERABLE SUMS BUT FEWER ELDERLY
TRANSFER THEIR ASSETS

Asset transfers involve larger average amounts and therefore have a greater negative effect on Medicaid than asset conversions but occur much less frequently. About one in every eight applicants in our sample transferred assets within 30 months of applying for Medicaid or entering a nursing home, whichever was later.¹⁰ Transfers ranged in value from \$850 to \$351,300, with about a third of all transfers totaling \$10,000 or less. The total amount transferred was \$2.2 million, or \$45,912 on average for each transfer. A small number of transfers accounted for about half of the \$2.2 million total transfer amount, however, and \$1.5 million of the \$2.2 million related to applications that Medicaid denied or applicants withdrew. Generally, applicants with greater assets and income were most likely to transfer their assets. Single transfers of cash represented the most common asset transfer method we identified but had the lowest average transfer value.

We identified 49¹¹ applicants in our sample who transferred their assets within 30 months of applying for Medicaid or entering a nursing home, whichever was later; about half were denied Medicaid eligibility. Although state eligibility workers appropriately identified the transfers during their eligibility determinations, the state approved 23 of these applicants for Medicaid because the ineligibility period had elapsed by October 1992. The state denied 24 applicants, 3 specifically because the ineligibility penalty periods had not expired by October 1992. It was not clear from the files if or how the asset transfers in the other 21 denied cases affected the state's decision. For example, if an applicant who transferred assets also failed to submit requested information, the state may have denied the applicant because the information

¹⁰None of the transfers relates to transactions between the applicant and the community spouse. These transfers do not affect an applicant's eligibility and are not subject to ineligibility penalties.

¹¹We identified transfers in two other cases, but the files contained no information on the value of the assets transferred.

was not provided. Two applicants or their family members withdrew their applications.

As shown in table 1, transfers for \$10,000 or less represented 37 percent of all transfers and accounted for \$73,000--3 percent of the total amount transferred. About three-quarters of the transfers were for \$50,000 or less; however, they represented about one-fifth of the total \$2.2 million transferred.

Table 1: Number and Percent of Applicants Who Transferred Assets, by Range of Transfer Amount and Total Amount Transferred Within Each Range

Range of transfer amount	Number of applicants	Percent of all applicants	Total amount transferred within the range
\$0 to \$10,000	18	37	\$73,000
10,001 to 50,000	18	37	414,000
50,001 to 100,000	7	14	551,000
100,001 to 200,000	3	6	432,000
200,001 +	3	6	779,000
Totals	49	100	2,249,000

Six of the transfers exceeded \$100,000 in value. While few in number, however, they accounted for approximately \$1.2 million or 55 percent of the \$2.2 million transferred in total.

Most of the \$2.2 million in transferred assets did not result in increased Medicaid spending. Table 2 shows that 26 applicants, who transferred assets totaling approximately \$1.5 million, were either denied Medicaid eligibility or withdrew their application.

Table 2: Number and Percent of Applicants Who Transferred Assets Who Were Denied Medicaid Eligibility or Withdrew Their Applications and the Value of the Assets They Transferred

Range of transfer amount	Number of applicants denied Medicaid or who withdrew their applications	Percent of all applicants in the range	Value of assets transferred by applicants denied Medicaid or who withdrew their applications
\$0 To \$10,000	10	56	\$44,000
10,001 to 50,000	7	39	146,000
50,001 to 100,000	4	57	316,000
100,001 to 200,000	3	100	432,000
200,001 +	2	67	573,000
Totals	26	52	1,511,000

Applicants who transferred more than \$100,000 were more likely to be denied Medicaid eligibility or to withdraw their application than those who transferred less than \$100,000. We found that the greater the amount transferred, the longer the ineligibility period and the greater likelihood that the transfer would affect Medicaid eligibility.

It should be noted that the increased costs to Medicaid from asset transfers depends on how long the person stays in the nursing home following expiration of the ineligibility penalty and the value of the assets transferred. Medicaid's actual increased costs could be less than the value of the transferred assets. For example, the applicant in our sample who transferred \$351,300 in assets in December 1989 and entered the nursing home in January 1992 would be subject to the maximum

ineligibility period of 30 months. If the person left the nursing home or died before the ineligibility period ended in June 1992, the transfer would have no effect on Medicaid's nursing home payments. If the person stayed in the nursing home beyond the ineligibility period, however, he or she would then be eligible for Medicaid, and Medicaid would begin paying that person's nursing home costs.¹² Based on a state payment rate of \$3,000 per month, the \$351,300 represents almost 10 years of Medicaid nursing home payments. If, however, the person left the nursing home or died 1 year after the ineligibility period ended, Medicaid's maximum nursing home payments would be \$36,000; the balance of the transfer (\$315,300) would not affect future Medicaid payments.

As seen in table 3, we found that applicants of all asset and income levels transferred their assets but that those with greater assets and income were more likely to transfer assets than those with fewer assets or less income.

Table 3: Number and Percent of All Applicants Who Transferred Assets by Asset and Income Levels

Asset level	Number of applicants	Percent of all applicants	Income level	Number of applicants	Percent of all applicants
\$100,000 +	11	17	\$20,000 to 50,000	7	21
25,000 to 99,999	7	20	10,000 to 19,999	27	19
0 to 24,999	33	12	0 to 9,999	17	8

¹²This assumes that the person met Medicaid's other eligibility criteria.

Methods of Asset Transfer

Applicants used four methods to transfer their assets: (1) giving away real property--typically their primary residences--to individuals or placing their real estate in trusts, (2) making one-time gifts of cash, (3) giving away cash in multiple transactions over time, and (4) placing cash in a trust. In most cases the applicants transferred their assets to family members. Eight applicants used two or more of these methods. As shown in figure 5, single transfers of cash represented the most common asset transfer method. Real estate transfers had the highest average transfer value, as shown in figure 6.

Figure 5: Number and Methods of Asset Transfers

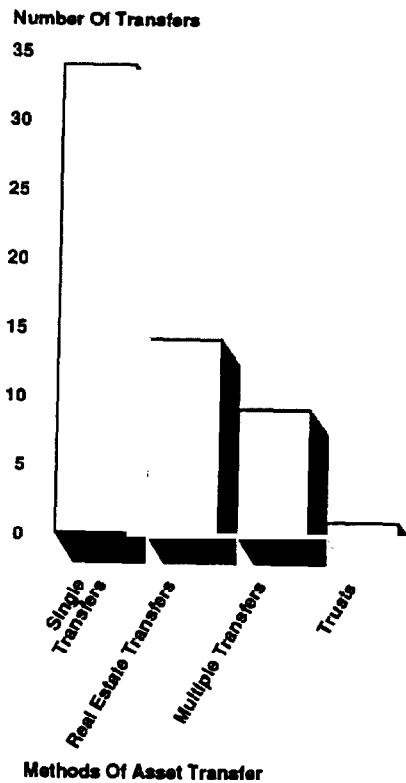
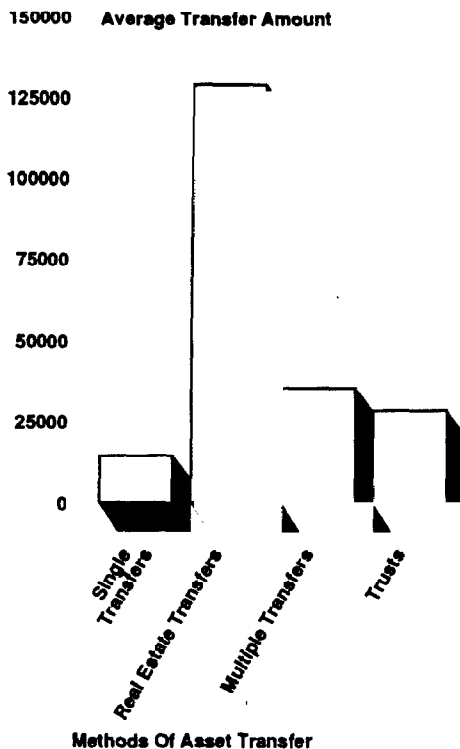


Figure 6: Average Value of the Four Transfer Methods

Fourteen applicants transferred their real property (in nearly all cases, this represented their primary residences), with an average value of \$128,634.¹³ Of the four transfer methods we identified, transfer of real property had the greatest average value. Typically, the recipients were children of the applicant or other family members. Applicants transferred real estate by signing it over to individuals, placing it in trusts, and adding names on deeds to create joint ownership. Some of these transfers involved life estates allowing the applicants and their spouses to retain the right to use the primary residence. For example, an applicant and spouse placed their \$221,800 home in a revocable trust in February 1992, about 5 months before the applicant entered an acute care hospital. The state denied the application because the applicant and spouse did not receive fair market value for their home. In this case, the applicant will not be

¹³This average is based on 11 real estate transactions for which we could identify a value.

eligible for Medicaid for 30 months from the date of the transfer or until September 1994.

A one-time gift of cash was the most common transfer method we identified. Thirty-four applicants used this method, but the average value of assets transferred--\$14,400--was the smallest of the four transfer methods. The smaller the amount transferred, the shorter the ineligibility penalty period would be and the less likely that the penalty would adversely affect the applicant's eligibility. For example, one applicant gave her sister a \$5,200 cash gift in May 1991 and entered a nursing home later that same month. The 2-month ineligibility penalty period expired in July 1991, 15 months before Medicaid approved benefits for this woman in October 1992. In another case, an applicant transferred \$15,000 from a joint bank account to a third individual in July 1990. A 5-month ineligibility penalty expired in December 1990, about a year and a half before the applicant entered a nursing facility in June 1992.

One applicant transferred cash to a trust but then liquidated the trust while privately paying for nursing home care during the state-imposed ineligibility period. The applicant privately paid for nursing home care for more than a year before making a \$28,175 transfer to a Medicaid qualifying trust that she had established in 1986. The state approved the application after the 9-month ineligibility period expired.

Even though applicants were almost four times more likely to transfer their cash in a single transfer, nine applicants reduced their assets by making multiple cash transfers with an average value of \$35,198--more than twice the average value of a single cash transfer. This transfer method often prompts shorter penalty periods than single transfers for similar amounts because penalty periods for each of the multiple transfers may run concurrently.

For example, one applicant gave his niece a total of \$26,150 in three monthly payments of \$1,150, \$15,000 and \$10,000 between May and July 1991. The second transfer for \$15,000 in June 1991 carried a 5-month penalty, which started on the date of the transfer and ran to October 1991. The state administered the penalty for the \$10,000 transfer concurrently. Had the applicant made a single \$26,150 transfer in May 1991, the ineligibility period would have run to January 1992 or about 3 months longer. The applicant entered a nursing home in October 1991 and

privately paid for his nursing home care before applying for Medicaid almost 1 year later.

Some Applicants Reported Transferring Assets More Than 30 Months Before Applying for Medicaid

Although Medicaid does not penalize or require information on transfers occurring more than 30 months before application, or the person entering a nursing home, 16 applicants reported such transfers. The transactions included either real estate or cash transfers to trusts, although one applicant used both methods. These transactions included 13 real estate transfers. In 10 of these cases in which transfer amounts were in the files, the average value was \$121,706. We also identified four transfers of cash to trusts. For the 3 transfers in which transfer amounts were in the files, the average value was \$65,798. In each of the 4 cases involving a transfer to a trust, however, the state determined that the trust principal or income was available to the pay the applicant's nursing home care. The total amount transferred in the 13 cases for which we could identify transfer values was \$1.4 million. We do not know if other applicants also transferred assets outside the 30-month period but did not voluntarily provide this information to the state.

NO APPEALS OF THE COMMUNITY SPOUSE RESOURCE ALLOWANCE

No information in the files indicated that any of the 97 married couples in our survey appealed their community spouse resource allowance. While state officials provided us examples of such appeals, no cases appeared in our review. The state does not keep specific records on the number of cases involving these appeals or their outcomes.

STATE COMPLIES WITH MEDICAID ELIGIBILITY AND ESTATE PLANNING REQUIREMENTS

Based on the files we reviewed, Massachusetts is complying with Medicaid regulations that require states to verify if the elderly seeking long-term care financially qualify for benefits. The state has revised its application form to obtain more specific asset and income information that will better enable it to determine eligibility. The state still

has to rely primarily, however, on the accuracy and completeness of the information that applicants report.

Eligibility Determination Procedures

Through information supplied on the application form and discussions with the applicants and their family members, state eligibility workers determine if the applicants meet Medicaid's eligibility criteria. The application form requires applicants to provide detailed information for the prior 30 months about their assets and income, including (1) bank accounts, (2) life insurance, (3) trusts, (4) real estate, (5) transfers of assets, and (6) income sources and amounts earned. Additionally, the state requires applicants to submit further information, such as their last two federal income tax return, and copies of real estate deeds, local property tax bills, stocks, and bonds. Also, state eligibility workers told us that they sometimes identify other assets and income sources during their discussions with applicants and family members.

If an eligibility worker finds that an applicant has transferred assets for less than fair market value, the worker calculates the ineligibility penalty and may deny the application.

The state takes several actions to verify the information submitted. Annually, the state matches unearned income information reported on applications with Internal Revenue Service tax records. Between July 1991 and June 1992, the state recovered \$1.3 million as a result of this computer matching effort. State officials told us that less than 1 percent of the Medicaid nursing home population inaccurately reports its unearned income data.

Additionally, the state performs several other computer matches to verify the applicants' information. For example, the state compares Medicaid recipients with Department of Revenue information to determine if the recipients had earned income for the period measured. Also, the state compares Medicaid recipients with Social Security data to determine if the recipients are accurately reporting their Social Security income.

New Application Form Is Being Used

In March 1993, Massachusetts began using a revised application form that enables it to obtain more complete information from the applicant and thus have better data to determine eligibility. For example, the new form requires applicants to list their addresses for the prior 3 years rather than just their present address, which was previously required. If an applicant had lived in another state, this information is now available to Massachusetts and state officials may check with banks in that state to determine if the applicant had any checking or savings accounts. Also, the new application clarifies that the state requires the applicant to supply copies of all trust documents, even if the trust was created before the past 30 months and asks specifically if any property has been transferred to a trust. Concerning asset transfers, the previous form asked one general question about whether applicants or their spouses transferred assets. The new form asks about different types of transfers such as life estates in property or adding another name to property deeds.

Difficulties Experienced
in Determining Eligibility

State officials told us that they may not always obtain complete information from applicants and that there are limitations to verifying this information. For example, if an applicant owned property in another state and transferred ownership within the prior 30 months, the state would have to rely on the applicant to report this information. Current state verification procedures would not identify such transfers. The same limitation applies to trusts. No state agency records trust documents; however, real estate trusts are recorded at state court houses. Real estate trust information is not computerized, however, so that any research of a real estate trust must be done manually at the court house. Thus, trust records of any type are not readily available in a central location for the state to verify.

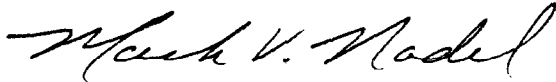
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We are sending copies of this correspondence to the Secretary of Health and Human Services, the Administrator

B-250340

of the Health Care Financing Administration, the Massachusetts Department of Public Welfare, and other interested parties. Copies also will be made available to others upon request.

Should you or your staff have any questions about this correspondence, please call me at (202) 512-7119.



Mark V. Nadel
Associate Director, National and
Public Health Issues

OBJECTIVES, SCOPE, AND METHODOLOGY

Our objectives were to determine (1) the prevalence of Medicaid estate planning by the elderly for purposes of becoming Medicaid eligible, (2) the value of assets sheltered through Medicaid estate planning, and (3) the extent to which states are enforcing Medicaid regulations on Medicaid estate planning. This correspondence describes our initial efforts to identify the extent of the problem in Massachusetts.

To determine the prevalence of Medicaid estate planning, we reviewed a random sample of 403 Medicaid application case files at the three Medicaid long-term care application processing centers in Massachusetts. Experts told us that Massachusetts was one of several states where Medicaid estate planning may be prevalent. The files represented about one-third of the applications that the state approved or denied or that applicants withdrew in October 1992. We selected October 1992 for two reasons. One, officials told us that it represented a typical month for application decisions. Two, experts believe that Medicaid estate planning has become more prominent since the passage and repeal of the Medicare Catastrophic Coverage Act of 1988. By reviewing October 1992 case files, we believed that we would increase the likelihood of identifying Medicaid estate planning that occurred subsequent to this act.

From each file we determined if the applicant converted countable assets to noncountable assets, transferred assets, or, if married, appealed their community spouse resource allowance. The files contained asset conversion documentation such as burial contracts signed with funeral homes or bank books showing that money had been set aside in burial savings accounts. The files also contained asset transfer documentation, including trust documents, real estate deeds, and written statements explaining how money was given away. We did not independently test the file data nor did we determine if applicants accurately reported all their assets and asset transfers. We created a data base from our file review information that enabled us to perform a number of statistical analyses.

We also interviewed Health Care Financing Administration officials responsible for administering Medicaid at the federal level, Medicaid officials in 10 states, and Medicaid estate planning experts throughout the country.

To determine the extent to which Massachusetts is enforcing Medicaid estate planning regulations, we interviewed state Department of Public Welfare officials who administer the program. We obtained pertinent state Medicaid regulations relating to

eligibility verifications and enforcement of transfer of assets restrictions. We interviewed Medicaid eligibility workers about how they determine eligibility and the difficulties they face in obtaining complete, accurate information from the applicants. Additionally, we determined what actions the state is taking to strengthen its enforcement procedures. We also interviewed officials responsible for performing required computer matching of Medicaid applicant data with other available computerized information, as well as officials who review and develop potential cases of Medicaid fraud.

Our methodology has two additional limitations. One, it does not include people who conducted Medicaid estate planning but have not applied for Medicaid nursing home benefits. These people may not need nursing home care, may not yet be eligible for Medicaid, may have moved out of state, or may have died. Two, Massachusetts generally requires applicants to supply information about asset transfers and conversions that occurred within 30 months of their applying for Medicaid. Applicants who conducted Medicaid estate planning sufficiently in the past would not have to report such data to the state and therefore may not have appeared in our review to have transferred or converted assets.

We conducted our review from September 1992 to June 1993 in accordance with generally accepted government auditing standards.

INFORMATION ON APPLICANTS' ASSETS AND INCOME

The majority of the 403 applicants in our sample had neither significant assets nor income. As shown in table II.1, three-quarters of all applicants had less than \$25,000 in assets.¹

Table II.1: Number and Percent of Applicants, by Asset Level

Asset level	Number of applicants	Percent of applicants
\$100,000 +	63	16
25,000 to 99,000	35	9
1 to 24,999	283	70
0	19	5
Unknown	3	^a
Totals	403	100

^aLess than 1 percent.

On average, applicants had \$38,202² in assets, including the 97 applicants who owned their primary residence. Excluding the value of the primary residences, applicants had an average of \$14,875 in assets.

More than half of the applicants had less than \$10,000 in annual income from all sources and 92 percent had less than \$20,000 in annual income. This shown in table II.2.³

¹Assets refer to both countable and noncountable assets, including the value of a primary residence, reported by applicants when they applied for Medicaid nursing home benefits.

²The average is based on the 381 applicants for whose assets we could identify a value.

³The income of the applicant's spouse is included in these figures.

Table II.2: Number and Percent of Applicants by Income Level

Income level	Number of applicants	Percent of applicants
\$20,000 to \$50,000	32	8
10,000 to 19,999	145	36
0 to 9,999	226	56
Totals	403	100

On average, applicants had \$11,227 in annual income⁴. Nearly all the applicants had social security income, and for 45 percent, this represented their only income source.

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⁴The average is based on the 399 applicants who reported income sources.